

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7526

Petition of Vermont Community Wind Farm LLC     )  
for a certificate of public good authorizing the     )  
installation and operation of a temporary wind     )  
measurement tower and associated equipment on     )  
Susie's Peak in Clarendon, Vermont                 )

Order entered: 1/6/2010

**ORDER RE AMENDMENT REQUIREMENT AND SANCTIONS**

**I. INTRODUCTION**

On October 23, 2009, Vermont Community Wind Farm LLC ("Vermont Community Wind") filed a letter with the Public Service Board ("Board") indicating that it had changed the location for the wind measurement tower on Susie's Peak by approximately 381 feet from the location approved in its Certificate of Public Good ("CPG").

In this Order, we conclude that the change in location of the wind measurement tower by Vermont Community Wind represents a material deviation from the project as approved, and thus required prior approval by the Board. In addition, we conclude Vermont Community Wind violated a permit condition, for which it is subject to penalty under 30 V.S.A. § 30. We require that the wind measurement tower be removed from its present location on Susie's Peak until Vermont Community Wind obtains an amended CPG and restore the cleared site if no amended petition is filed. We also require that Vermont Community Wind shall pay a \$6,000 penalty.

**II. PROCEDURAL HISTORY**

On August 28, 2009, the Board issued a CPG to Vermont Community Wind authorizing the installation and operation of a temporary wind measurement tower and associated equipment on Susie's Peak in Clarendon, Vermont. Condition 1 of Vermont Community Wind's CPG

requires that "[c]onstruction, operation, and maintenance of the project shall be in accordance with the plans and evidence submitted in this proceeding. Any material deviation from these plans must be approved by the Board."

On October 16, 2009, the Chair of the Town of Clarendon Select Board submitted a filing to the Board claiming that the wind measurement tower was installed in a location 230 meters south of the location approved in the CPG. The Select Board Chair states that the as-built location compromises a well-known recreation and picnic area and raises concerns about the potential for air traffic interference.

On October 21, 2009, the Vermont Agency of Transportation ("VTrans") filed a statement of concern with regard to Vermont Community Wind's compliance with Federal Aviation Administration ("FAA") regulations, and requested that the wind measurement tower be lighted.

On October 23, 2009, Vermont Community Wind filed a letter with the Board stating that it had in fact changed the location for the wind measurement tower installed on Susie's Peak, approximately 381 feet south of the location approved in its CPG.

On October 23, 2009, a Board memorandum established a deadline of November 6, 2009, for any responses to Vermont Community Wind's October 23 filing.

On October 29, 2009, Vermont Community Wind filed a letter responding to issues raised by the Chair of the Town of Clarendon Select Board.

On October 29, 2009, Vermont Community Wind filed a separate letter responding to VTrans' concerns with regard to FAA requirements and request for the addition of a light to the wind measurement tower.

On November 2, 2009, the Town of Clarendon Select Board filed a complaint pursuant to 30 V.S.A. § 208, contending that Vermont Community Wind had unlawfully installed a wind measurement tower in an area not approved in its CPG and that the material deviation adversely affects the Town of Clarendon.

On November 4, 2009, the Town of Ira filed a letter stating that it concurred with the Town of Clarendon that the as-built location of the wind measurement tower represented a

material change and that Vermont Community Wind should be required to submit an application for an amendment to its CPG.

On November 5, 2009, the Department of Public Service ("Department") requested additional time for review and to file a response. On November 6, 2009, a Board memorandum established a deadline of November 20, 2009, for any responses to Vermont Community Wind's October 23 and 29 filings.

On November 6, 2009, the Town of Clarendon Planning Commission filed a letter indicating its desire to join the complaint filed by the Town of Clarendon Select Board.

On November 6, 2009, Vermonters for a Clean Environment ("VCE") filed a letter expressing its members' concerns about the as-built location of the wind measurement tower.

On November 16, 2009, the Department again requested additional time for review and to file a response. On November 20, 2009, a Board memorandum established a deadline of December 4, 2009, for any responses to Vermont Community Wind's October 23 and 29 filings.

On December 4, 2009, the Department filed a letter concluding that the change in location of the wind measurement tower constitutes a material deviation and that Vermont Community Wind should not have installed the tower without prior Board approval.

On its December 11, 2009, Vermont Community Wind filed a letter restating its contention that the change in location of the wind measurement tower was not a material deviation from the plans approved in its CPG and did not require prior Board approval.

On December 18, 2009, the Select Board of the Town of Clarendon filed a letter concurring with the Department's conclusion that the as-built location has the potential for significant impacts to Section 248(b) criteria.

On December 31, 2009, Vermont Community Wind filed a letter providing a copy of the FAA's "Determination of No Hazard to Air Navigation" that was issued for the as-built location of the wind measurement tower.

The Board received twenty additional public comments addressing the wind measurement tower's change in location and the tower's potential for air traffic interference, which are summarized below.

### **III. PARTIES' POSITIONS**

The Select Board of the Town of Clarendon contends that Vermont Community Wind has unlawfully installed a temporary wind measurement tower in a different area than was approved by the Board, and that this deviation from the permitted site adversely affects the Town of Clarendon. The Town of Clarendon contends that the relocation of the wind measurement tower has increased the aesthetic impacts and the effects upon the natural environment, including a well-known recreation and picnic area. The Town of Clarendon asserts that there is insufficient information to determine whether the environmental assessment and plant inventory prepared for the approved project is applicable to the as-built site. The Town of Clarendon requests that the project be constructed in accordance with evidence and plans approved in the CPG or, in the alternative, the CPG should be revoked and a new proceeding conducted pursuant to Section 248(j)(2).

VTrans raises concerns about the potential impact that the wind measurement tower would have on the operations of the Rutland-Southern Vermont Regional Airport. VTrans claims that federal and state aviation officials have insufficient information to evaluate the project because Vermont Community Wind had not filed a Notice of Proposed Construction (FAA Form 7460-1), which is required for any object that would extend more than 200 feet above ground level or that otherwise triggers 14 C.F.R. Part 77. VTrans requests that the Board consider the addition of a solar-powered light to the permitted wind measurement tower in order to provide additional safety for aviators.

The Town of Ira concurs with the Town of Clarendon that the as-built location of the wind measurement tower represented a material change to the CPG. The Town of Ira concludes that the new location cannot be evaluated using the environmental assessment submitted with the petition and that the clearing performed at the as-built site does not allow for the assessment of wildlife impacts. The Town of Ira contends that the new location presents different aesthetic impacts than the approved location. The Town of Ira maintains that the potential impacts on the Rutland-Southern Regional Airport were not adequately evaluated in the approved location and should be considered in connection with the altered location. The Town of Ira concludes that

Vermont Community Wind should be required to submit an application for an amendment to its CPG.

VCE contends that the relocation of the wind measurement tower by 381 feet is a material deviation from the approved CPG. VCE states that it is unclear from the record whether the environmental assessment previously performed for the project applies to the new location. In addition, VCE raises concerns that the as-built location has disrupted a picnic area that has been long used as a public resource, and believes the public use of the recreational resource is relevant to the Section 248 criteria. VCE contends that Vermont Community Wind has not complied with FAA and VTrans requirements because it failed to file a FAA Form 7460-1. VCE requests that the Board conduct a site visit and a public hearing to assess the impacts that the change has on the substantive criteria of Section 248, or requests that the Board require Vermont Community Wind to remove the tower and begin a new Section 248 process.

Twenty other interested persons in the project area submitted comments addressing the wind measurement tower's change in location and the tower's potential for air traffic interference for pilots flying in and out of the Rutland-Southern Vermont Regional Airport. Many of these commenters, some of whom are pilots, believe the as-built tower was difficult to see and that it needs to be marked and lighted for aircraft safety. One commenter, a pilot, supports the construction of the wind turbines on Susie's Peak. Some commenters contend that the as-built location of the wind measurement tower represents a material change from the approved project. Some commenters raise concerns about impacts of the as-built location on aesthetics and the environment. A few commenters question the credibility of Vermont Community Wind.

The Department asserts that the location change of 381 feet has the potential for significant impacts under the Section 248(b) criteria, including aesthetic and environmental criteria, and that therefore, pursuant to Board Rule 5.408, the change rises to the level of material deviation requiring Board approval. The Department contends that, by not requesting approval from the Board to locate the wind measurement tower on the as-built site, Vermont Community Wind failed to recognize and defer to the Board's authority to decide whether changing the

location had the potential to create significant impacts.<sup>1</sup> The Department claims that Vermont Community Wind did not present analysis to support the new location and that the parties and interested persons were not provided opportunity to review information about the as-built site and submit comments to the Board.

The Department recommends that the Board impose a fine of \$10,000 on Vermont Community Wind for failing to obtain approval for a material deviation from its approved CPG. In addition, the Department recommends that the Board require Vermont Community Wind to file evidence demonstrating that the wind measurement tower in its as-built location satisfies the criteria of Section 248(b) and provide parties and interested persons an opportunity to comment. Once that evidence is reviewed, the Department states that it may request additional remedies.

In its October 23, October 29, and December 11 filings, Vermont Community Wind addressed the concerns raised by the parties and interested persons. Vermont Community Wind states that it had adjusted the location of the wind measurement tower approved in its CPG by 381 feet to enable the proper and safe installation of the guy anchors and wires.<sup>2</sup> Vermont Community Wind contends that the changes in location do not result in material deviation because the as-built project: (1) is 113 feet in height instead of 197 feet as approved in the CPG; (2) is located at a lower overall project elevation of 2,508 feet above sea level instead of the 2,549 feet approved in the CPG; (3) required a tree clearing of over one-half acre, rather than the one acre approved in the CPG; (4) is located 381 feet south of the location approved in the CPG, but remains within leased property and several hundred feet from the closest property line; and (5) has no impacts on, and is no closer to, identified environmental resources. Vermont Community Wind claims that the as-built location does not have the potential for significant impact with respect to any Section 248 criteria, and thus does not result in a material deviation in plans that must be approved by the Board.

With regard to air safety, Vermont Community Wind asserts that the FAA has jurisdiction over the lighting of the wind measurement tower and the FAA should make the

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1. The Department cites *Petitions of Vermont Electric Power Company and Green Mountain Power Corporation*, Docket 6860, Order of 11/30/07 at 2.

2. In a October 29 response, Vermont Community Wind states that the Chair of the Clarendon Select Board had incorrectly indicated that the relocation of the wind measurement tower was 755 feet rather than 381 feet.

determination as to whether the wind measurement tower should be lit.<sup>3</sup> With regard to VTrans' request for the wind measurement tower to be lighted, Vermont Community Wind observes that VTrans raised no concerns during the Section 248(j) comment process and prior to the issuance of the CPG, and that it is inappropriate for VTrans to seek new conditions at the post-CPG stage. Vermont Community Wind contends that, based on the use of the FAA's "Notice Criteria Tool," it is not required to file Form 7460-1.<sup>4</sup> Vermont Community Wind indicates that Form 7460-1 has now been filed with the FAA and informs the Board that the FAA has issued a "Determination of No Hazard to Air Navigation" for the as-built location.<sup>5</sup> In addition, Vermont Community Wind represents that it has provided the Rutland-Southern Regional Airport with the tower coordinates so that the airport can issue a "Notice to Airmen" about the tower.

Vermont Community Wind disputes the Department's characterization that it failed to recognize and defer to the Board's authority. In addition, Vermont Community Wind argues that Board Rule 5.408 does not apply to Section 248(j) CPGs and that the change in the project had no potential for a significant impact on the Section 248 criteria.

With regard to the Town of Clarendon Section 208 Complaint, Vermont Community Wind argues the complaint should be considered as comments since Clarendon does not meet the definition of an affected company or individuals for purposes of Section 208. Vermont Community Wind further states that the site change was not a material deviation and not a violation of the CPG, and therefore was not an "unlawful act" under Section 208.

As for the disruption of the recreation area used by area residents, Vermont Community Wind asserts that any prior use of such private land was and is at the discretion and permission of those with legal rights to the land and does not raise any issue relevant to the Section 248 criteria.

If the Board deems the deviation material, Vermont Community Wind requests Board approval of the as-built location maintaining that it does not raise a significant issue with respect

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3. Vermont Community Wind cites *Big Stone Broadcasting, Inc. v. Lindbloom*, 161 F.Supp.2d 1009, 1014-20 (D.S.D., 2001); and *Tweed-New Haven Airport Authority v. Town of East Haven, Conn.*, 582 F.Supp.2d 261, 268-69 (D.Conn., 2008).

4. In its October 29 filing, Vermont Community Wind provided FAA Notice Criteria Tool printouts for both wind measurement tower locations.

5. In its December 11 letter, Vermont Community Wind states that it has received confirmation from VTrans indicating that VTrans had filed Form 7460-1 for the as-built tower location.

to the substantive criteria of Section 248. With its request, Vermont Community Wind submitted additional information to support its claim that the as-built location does not raise significant issues with respect to environmental and aesthetic criteria.<sup>6</sup>

With regard to appropriate remedies, Vermont Community Wind asserts that the Department's recommendation for a \$10,000 penalty is inappropriate in light of the facts in the case and Board precedent. Vermont Community Wind contends that it acted in good faith and exercised reasonable judgment about the "material deviation" CPG language not previously interpreted in Board decisions. Vermont Community Wind further claims that its actions caused no environmental harm, but instead resulted in fewer environmental impacts. Vermont Community Wind maintains that the Board has previously ruled that not every CPG compliance matter requires monetary penalties.<sup>7</sup> With regard to Clarendon's request that the project be built in the location described in the petition, Vermont Community Wind contends that the request is impractical and would result in additional and unnecessary impacts (i.e., additional clearing would be needed).

#### **IV. DISCUSSION AND CONCLUSIONS**

Condition 1 of Vermont Community Wind's CPG requires that "[c]onstruction, operation, and maintenance of the project shall be in accordance with the plans and evidence submitted in this proceeding. Any material deviation from these plans must be approved by the Board."

In previous Board decisions, we have determined that a project's changes were "substantial" when they were "potentially significant" under the Section 248 criteria.<sup>8</sup> We further held that, while it was possible that the revised project would satisfy the standards of Section 248, and perhaps would satisfy them more easily than the original design, the statute requires the

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6. See Vermont Community Wind's December 11, 2009, letter, Attachment A (Affidavit of Mr. Lew-Smith), Attachment C (Affidavit of M. Buscher), attachment D (Susie's Peak MET Tower Location Comparison Map), and Attachment E (Chart of Section 248 Criteria).

7. Vermont Community Wind cites *Petition of Vermont Electric Cooperative, Inc.*, Docket 6544, Order of 2/20/02, and *Petition of Vicon Recovery Systems, Inc.*, Docket No. 4813-A, Order of 3/23/87.

8. *Vicon Recovery Systems*, Docket No. 4813-A, Procedural Order of 3/23/87 at 3-4, incorporated into Final Order of 12/16/87 at 2, 53; *Investigation into Citizens Utilities Company*, Docket 5841/5859, Order of 6/16/97, at 131- 133; *Petitions of Vermont Electric Power Company and Green Mountain Power Corporation*, Docket 6860, Order of 11/30/07 at 3.



Board to find that the standards are met. We thus required petitioners to file an application for an amended CPG for the revised design to determine whether the changes actually comply with the Section 248 criteria.

We conclude that a similar analysis applies in determining whether Vermont Community Wind's relocation of the wind measurement tower represents a material deviation. A fundamental purpose of Section 248 is to protect the values and resources that are reflected in the Section 248 criteria. Thus, it is reasonable to conclude that a deviation is material, for purposes of Section 248, if it has the potential for significant impacts under the Section 248 criteria.

We further conclude that the movement of the wind measurement tower by 381 feet constitutes a material deviation from the plans approved in the CPG. The new location represents a change in tower height and elevation on the Susie's Peak ridgeline, and necessitated a tree clearing area that is new and separate from that identified and reviewed in the approved plans. Therefore, these changes have the potential for significant impacts to the Section 248(b) criteria, including aesthetic and environmental criteria, and thus represent a material deviation requiring Board approval. While Vermont Community Wind contends that its revised location of the wind measurement tower in fact resulted in less environmental and aesthetic impact, the relevant question is whether the relocation has the potential for significant impacts under the statutory criteria. If so, the relocation must be reviewed and approved by the Board.

Vermont Community Wind requests that, if the Board concludes the relocation to be a material deviation, the Board approve the as-built location. Vermont Community Wind has submitted additional information to support its claim that the as-built location results in fewer impacts, but no party or interested person has had the opportunity to review and comment on the information. In addition, as addressed further below, the information submitted does not adequately address concerns with regard to air safety. Therefore, we cannot make a determination on the as-built location until we conduct a review for the revised project under Section 248, including the opportunity for comments on the new location. We thus require that Vermont Community Wind file for an amendment to its CPG to seek approval for the wind measurement tower in its as-built location. The amended petition should demonstrate that the as-built location of the wind measurement tower satisfies the substantive criteria of Section 248.

Given the violation of the CPG, we will conduct a full Section 248 review of any amended petition that may be filed, because we conclude that the public interest would not be satisfied by a review under Section 248(j).

VTrans, the Town of Clarendon, and other commenters have raised concerns with regard to the wind measurement tower's impact on the Rutland-Southern Regional Airport. VTrans requested that Vermont Community Wind file FAA Form 7460-1 and that the wind measurement tower be lighted for aircraft safety, a request that was filed well after the Board's issuance of the CPG. It appears from the information provided by Vermont Community Wind in its October 29 filing that it may have complied with FAA requirements and that the submittal of Form 7460-1 is not necessary. In its December 11 filing, Vermont Community Wind states that it has provided the Rutland-Southern Regional Airport with the tower coordinates so that the airport can issue a Notice to Airmen about the tower. In addition, Vermont Community Wind indicates that Form 7460-1 has now been filed with the FAA and the FAA has issued a "Determination of No Hazard to Air Navigation" for the as-built location. VTrans provided no additional responses or information to the Board regarding air traffic issues. Given the number of the concerns that have been filed regarding air traffic safety, and the limited information provided by VTrans, we remain concerned about the tower's impact on air traffic at the regional airport. Any amended petition filed by Vermont Community Wind should address the wind measurement tower's impact on air safety, any associated need for marking or lighting of the tower, and possible aesthetic impacts associated with marking or lighting of the tower.

Given the air traffic safety concerns expressed by VTrans and the tower's relocation to a site not approved by the Board, we require that the wind measurement tower be removed from its present location on Susie's Peak until Vermont Community Wind obtains an amended CPG for that location. Vermont Community Wind has one week from the date of this Order to remove the wind measurement tower. It is our understanding that the complete assembly and installation of the wind measurement tower takes approximately one day.<sup>9</sup> Therefore, we conclude that the removal of the tower should not involve significant effort.

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9. *Petition of Vermont Community Wind*, Docket 7526, Order of 8/28/09 at 7-8.

We are deeply concerned by Vermont Community Wind's unilateral modifications to the approved project. Vermont Community Wind violated an express permit condition for which it is subject to penalty under 30 V.S.A. §§ 30 and 247. Even if we were to determine that Vermont Community Wind's changes to the location of the tower were appropriate and amend the CPG accordingly, that would not excuse Vermont Community Wind's violation of the CPG condition nor shield it from penalties.

Based on the filings of the parties and interested persons, as well as the Department's recommendation for the assessment of a \$10,000 penalty, it appears that sanctions should be imposed, pursuant to 30 V.S.A. §§ 30 and 247,<sup>10</sup> on Vermont Community Wind for the violation of Condition 1 of its CPG. Given Board precedent, however, we do not find the Department's proposed \$10,000 penalty to be warranted. Under past violations related to wind measurement towers, the Board has imposed penalties of \$1,000 and \$2,000, with the \$2,000 penalty imposed for construction of a tower with no prior CPG whatsoever.<sup>11</sup> We recognize, however, that the penalties imposed in these two instances may not be fully applicable given the violations and the uncertainty associated with Board jurisdiction over wind measurement towers at the time the wind measurement towers were installed. In considering sanctions, we also recognize that we are requiring the removal of the wind measurement tower. We thus conclude that \$6,000 appears to be an appropriate penalty. Pursuant to 30 V.S.A. § 30(d), Vermont Community Wind may request a hearing at which it may show cause, on the record through sworn testimony subject to cross-examination, why the Board should not impose sanctions, or impose a different sanction, pursuant to 30 V.S.A. §§ 30 and 247. Vermont Community Wind must make any request for such hearing withing two weeks from the date of this Order. If no such request is filed, than Vermont Community Wind shall pay a \$6,000 penalty.

The Town of Clarendon and other commenters have raised concerns that the as-built location has disrupted a long-used picnic area. The Board does not have jurisdiction over property disputes, and instead is limited in this proceeding to a review of a project under the

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10. We note that, under 30 V.S.A. § 247, sanctions might be imposed not only on Vermont Community Wind but also on its officers.

11. *Petition of UPC Wind Management*, Docket 6884, Order of 4/21/04 and *Petition of Endless Energy Corporation*, Docket 6154, Order of 3/20/06.

Section 248 criteria. It is Vermont Community Wind's obligation to ensure that it has appropriate legal rights to use the as-built site, and any disputes over those property rights are a matter for the civil courts, not this Board.<sup>12</sup> We conclude that this prior public use of private property does not present an issue properly within our jurisdiction.

Vermont Community Wind contends that the Town of Clarendon Section 208 Complaint should be considered as public comments because Clarendon does not meet the definition of an affected company or individuals, as defined in Section 201. We agree that the Town of Clarendon does not meet the definition of an affected company or individuals as defined in Section 201, and thus the town's filing is not a proper Section 208 complaint. The issues raised by the Town of Clarendon can be fully addressed through the authority under Sections 30, 247, and 248 of Title 30. Therefore, we are treating the Town of Clarendon's complaint as public comments.

We are requiring Vermont Community Wind to file for an amendment to seek approval if it wishes to re-install the wind measurement tower in its current as-built location. Vermont Community Wind should not seek to remedy the situation by moving the wind measurement tower to the location approved in its CPG. In its December 11 filing, Vermont Community Wind has acknowledged that the movement of the tower to the approved location would result in additional and unnecessary impacts. Because Vermont Community Wind has cleared land that was not authorized in its CPG, construction of the project in accordance with evidence and plans approved in the CPG is not an alternative, without further Board approval.

If Vermont Community Wind chooses not to file an amended petition requesting the wind measurement tower to be re-installed on Susie's Peak, Vermont Community Wind must restore the cleared site in accordance with the plans approved in the August 23 Order. Those plans include the removal of the guy anchors and allowance of the natural re-vegetation of the site.<sup>13</sup>

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12. *Petition of UPC Vermont Wind*, Docket 7156, Order of 8/8/07 at 59; *Petition of Vermont Community Wind*, Docket 7518, Order of 8/28/09 at 8; *Petition of Vermont Community Wind*, Docket 7526, Order of 8/28/09 at 5.

13. Docket 7526, Order of 8/28/09 at 8.

**V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Vermont Community Wind shall remove the wind measurement tower installed on Susie's Peak in Clarendon, Vermont, and provide certification to the Board that removal has taken place within one week from the date of this Order.
2. If Vermont Community Wind wishes to seek approval for the re-installation of the wind measurement tower on Susie's Peak, it must file an amended petition under Section 248.
3. If Vermont Community Wind does not file an amended petition for the re-installation of the wind measurement tower, the tower site shall be restored in accordance with the Order issued in this Docket on August 28, 2009.
4. Vermont Community Wind may request a hearing at which it may show cause why the Board should not impose sanctions, or should impose a sanction other than a \$6,000 penalty, pursuant to 30 V.S.A. §§ 30 and 247. Vermont Community shall make any such request within two weeks from the date of this Order.
5. If Vermont Community Wind does not request such a hearing, it shall pay a penalty of \$6,000, with a check in the amount of \$6,000, made payable to the Vermont Public Service Board, to be forwarded to the Clerk of the Board not later than 45 days from the date of this Order.

Dated at Montpelier, Vermont, this 6th day of January, 2010.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: January 6, 2010

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*